

Notice of Allowability

Application No.

10/087,161

Examiner

JOHN D PAK

Applicant(s)

ERICKSON ET AL.

Art Unit

1616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Applicant's reply of 5/10/2004.
2. ☒ The allowed claim(s) is/are 7, 27-31, 8-14 [renumbered as 1-13].
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.


Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date 10/11/2003
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____.
7. ☐ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.


JOHN PAK
PRIMARY EXAMINER
GROUP 1200

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Ms. Connor on 5/27/2004.

Claim 7, line 3: delete "such as".

Amend claims 8 and 11 as follows ----

CLAIM 8 (Amended): A method of controlling parasitic mites of honey bees, which comprises placing in an area where said parasitic mites are to be attracted a dispenser means which provides an amount of 2-heptanone effective to attract said parasitic mites.

CLAIM 11 (Amended): A method of controlling hive invading pests of honey bees, which comprises placing within, next to, or in contact with a hive of honey bees, empty or stored honey bee hives with combs, bee colonies, bee brood, stored wax combs, stored hives of honey bees, or stored wooden honey bee hive parts a dispenser means which provides an effective hive invader-controlling amount of 2-heptanone.

The following is an examiner's statement of reasons for allowance:

The claimed invention, as presently amended, is directed to a method of controlling parasitic mites or honey bees by exposing said mites to a miticidally effective amount of 2-heptanone, method of controlling parasitic mites by placing a dispenser means of 2-heptanone to attract said mites, and method of controlling hive invading pests of honey bees by placing a dispenser means to provide an effective hive invader-controlling amount of 2-heptanone. The state of the art indicates that 2-heptanone may have a repellent effect to bees (see e.g. Reference BL5 on the IDS of 10/31/2002, DE 4012224). However, applicant has shown that 2-heptanone can be effectively applied to control honey bee pests without negatively impacting the honey bee. In specification Tables 1, 3, 4, 6, 7, 9 (pp. 25, 27, 28, 31, 32, 38) and paragraph 136 on page 39, effective mite and pest control is established. In specification paragraphs 110, 112 and 113, effective control without negative impact on bee behavior is established, which is an unexpected result. Therefore, the claimed invention as a whole is deemed to be unobvious and patentable over the prior art.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

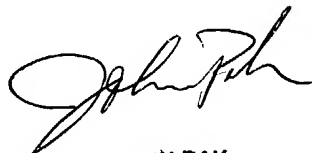
Any inquiry concerning this communication or earlier communications from the Examiner should be directed to JOHN PAK whose telephone number is **(571)272-0620**,

effective February 3, 2004. The Examiner can normally be reached on Monday to Friday from 8 AM to 4:30 PM.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's SPE, Thurman Page, can be reached on (571)272-0602, effective February 3, 2004.

The fax phone number for the organization where this application or proceeding is assigned is (703)872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571)272-1600.



JOHN PAK
PRIMARY EXAMINER
GROUP 1600